

Senate File 2379

AN ACT

RELATING TO PERMITS TO CARRY WEAPONS AND PERMITS TO ACQUIRE
PISTOLS AND REVOLVERS INCLUDING THE DISSEMINATION OF
INFORMATION RELATING TO PERSONS SUFFERING FROM MENTAL AND
SUBSTANCE ABUSE HEALTH-RELATED DISORDERS AND THE POSSESSION
OF FIREARMS AND PROVIDING PENALTIES AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 229.24, subsection 1, Code 2009, is
amended to read as follows:

1. All papers and records pertaining to any involuntary
hospitalization or application for involuntary hospitalization
of any person under this chapter, whether part of the permanent
record of the court or of a file in the department of human
services, are subject to inspection only upon an order of the
court for good cause shown. ~~Nothing in this section shall~~

~~prohibit a hospital from complying with the requirements of this chapter and of chapter 230 relative to financial responsibility for the cost of care and treatment provided a patient in that hospital, nor from properly billing any responsible relative or third-party payer for such care and treatment.~~

Sec. 2. Section 229.24, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This section shall not prohibit any of the following:

a. A hospital from complying with the requirements of this chapter and of chapter 230 relative to financial responsibility for the cost of care and treatment provided a patient in that hospital or from properly billing any responsible relative or third-party payer for such care or treatment.

b. A court or the department of public safety from forwarding to the federal bureau of investigation information that a person has been disqualified from possessing, shipping, transporting, or receiving a firearm pursuant to section 724.31.

Sec. 3. Section 602.8102, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 125A. Forward information that a person has been disqualified from possessing, shipping, transporting, or receiving a firearm pursuant to section 724.31 to the department of public safety.

Sec. 4. NEW SECTION. **724.4C Possession or carrying of firearms while under the influence.**

A permit issued under this chapter is invalid if the person to whom the permit is issued is intoxicated as provided in section 321J.2, subsection 1.

Sec. 5. Section 724.7, Code 2009, is amended to read as follows:

724.7 Nonprofessional permit to carry weapons.

Any person who ~~can reasonably justify going armed may~~ is not disqualified under section 724.8, who satisfies the training requirements of section 724.9, and who files an

application in accordance with section 724.10 shall be issued a nonprofessional permit to carry weapons. Such permits shall be on a form prescribed and published by the commissioner of public safety, which shall be readily distinguishable from the professional permit, and shall identify the holder thereof, and state the reason for the issuance of the permit, and the limits of the authority granted by such permit of the permit. Such permits shall not be issued for a particular weapon and shall not contain information about a particular weapon including the make, model, or serial number of the weapon or any ammunition used in that weapon. All permits so issued shall be for a definite period as established by the issuing officer, but in no event shall exceed a period of twelve months five years and shall be valid throughout the state except where the possession or carrying of a firearm is prohibited by state or federal law.

Sec. 6. Section 724.8, Code 2009, is amended to read as follows:

724.8 Persons eligible for permit to carry weapons.

~~No person shall be issued a professional or nonprofessional permit to carry weapons unless~~ shall be issued to a person who is subject to any of the following:

1. ~~The person is~~ Is less than eighteen years of age ~~or older for a professional permit or less than twenty-one years of age for a nonprofessional permit.~~

2. ~~The person has never been convicted of a felony.~~

3. ~~2. The person is not~~ Is addicted to the use of alcohol ~~or any controlled substance.~~

4. ~~3. The person has no history of repeated acts of violence.~~ Probable cause exists to believe, based upon documented specific actions of the person, where at least one of the actions occurred within two years immediately preceding the date of the permit application, that the person is likely to use a weapon unlawfully or in such other manner as would endanger the person's self or others.

5. ~~The issuing officer reasonably determines that the applicant does not constitute a danger to any person.~~

4. Is subject to the provisions of section 724.26.

~~6. 5. The person has never~~ Has, within the previous three years, been convicted of any crime serious or aggravated misdemeanor defined in chapter 708, except "assault" as defined in section 708.1 and "harassment" as defined in section 708.7 not involving the use of a firearm or explosive.

6. Is prohibited by federal law from shipping, transporting, possessing, or receiving a firearm.

Sec. 7. Section 724.9, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

724.9 Firearm training program.

1. An applicant shall demonstrate knowledge of firearm safety by any of the following means:

a. Completion of any national rifle association handgun safety training course.

b. Completion of any handgun safety training course available to the general public offered by a law enforcement agency, community college, college, private or public institution or organization, or firearms training school, utilizing instructors certified by the national rifle association or the department of public safety or another state's department of public safety, state police department, or similar certifying body.

c. Completion of any handgun safety training course offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement or security enforcement agency approved by the department of public safety.

d. Completion of small arms training while serving with the armed forces of the United States as evidenced by any of the following:

(1) For personnel released or retired from active duty, possession of an honorable discharge or general discharge under honorable conditions.

(2) For personnel on active duty or serving in one of the national guard or reserve components of the armed forces of the United States, possession of a certificate of completion of

basic training with a service record of successful completion of small arms training and qualification.

e. Completion of a law enforcement agency firearms training course that qualifies a peace officer to carry a firearm in the normal course of the peace officer's duties.

2. Evidence of qualification under this section may be documented by any of the following:

a. A photocopy of a certificate of completion or any similar document indicating completion of any course or class identified in subsection 1.

b. An affidavit from the instructor, school, organization, or group that conducted or taught a course or class identified in subsection 1 attesting to the completion of the course or class by the applicant.

c. A copy of any document indicating participation in any firearms shooting competition.

3. An issuing officer shall not condition the issuance of a permit on training requirements that are not specified in or that exceed the requirements of this section.

Sec. 8. Section 724.10, Code 2009, is amended to read as follows:

724.10 Application for permit to carry weapons — ~~criminal history background~~ check required.

1. A person shall not be issued a permit to carry weapons unless the person has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall ~~state~~ require only the full name, driver's license or nonoperator's identification card number, residence, place of birth, and ~~age~~ date of birth of the applicant, and shall state whether the applicant ~~has ever been convicted of a felony, whether the person is addicted to the use of alcohol or any controlled substance, and whether the person has any history of mental illness or repeated acts of violence~~ meets the criteria specified in sections 724.8 and 724.9. An applicant may provide the applicant's social security number if the applicant so chooses. The applicant shall also

display an identification card that bears a distinguishing number assigned to the cardholder, the full name, date of birth, sex, residence address, and a brief description and colored photograph of the cardholder.

2. The ~~sheriff~~ issuing officer, upon receipt of an initial or renewal application under this section, shall ~~conduct~~ immediately conduct a criminal history background check concerning each applicant by obtaining criminal history data from the department of public safety which shall include an inquiry of the national instant criminal background system maintained by the federal bureau of investigation or any successor agency.

3. A person who ~~knowingly~~ makes what the person knows to be a false statement of material fact on the an application submitted under this section or who submits what the person knows to be any materially falsified or forged documentation in connection with such an application commits a class "D" felony.

Sec. 9. Section 724.11, Code 2009, is amended to read as follows:

724.11 Issuance of permit to carry weapons.

1. Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from for professional permits to carry weapons for persons who are nonresidents of the state, or whose need to go armed arises out of employment by the state, shall be made to the commissioner of public safety. In either case, the issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, shall determine that the requirements of sections 724.6 to 724.10 have been satisfied. However, for renewal of a permit the training program requirements in section 724.9 may be waived for renewal permits, subsection 1, shall apply or the renewal applicant may choose to qualify on a firing range under the supervision of an instructor certified by the national rifle association or the department of public safety or another state's department of public safety, state police department,

or similar certifying body. Such training or qualification must occur within the twelve-month period prior to the expiration of the applicant's current permit.

1A. Neither the sheriff nor the commissioner shall require an applicant for a permit to carry weapons to provide information identifying a particular weapon in the application including the make, model, or serial number of the weapon or any ammunition used in that particular weapon.

2. The issuing officer shall collect a fee of ~~ten~~ fifty dollars, except from a duly appointed peace officer or correctional officer, for each permit issued. Renewal permits or duplicate permits shall be issued for a fee of ~~five~~ twenty-five dollars, provided the application for such renewal permit is received by the issuing officer at least thirty days prior to the expiration of the applicant's current permit. The issuing officer shall notify the commissioner of public safety of the issuance of any permit at least monthly and forward to the commissioner an amount equal to ~~two~~ ten dollars for each permit issued and ~~one dollar~~ five dollars for each renewal or duplicate permit issued. All such fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department of public safety to offset the cost of administering this chapter. ~~Any~~ Notwithstanding section 8.33, any unspent balance as of June 30 of each year shall not revert to the general fund ~~as provided by section 8.33 of the state.~~

3. The sheriff or commissioner of public safety shall approve or deny an initial or renewal application submitted under this section within thirty days of receipt of the application. A person whose application for a permit under this chapter is denied may seek review of the denial under section 724.21A. The failure to approve or deny an initial or renewal application shall result in a decision of approval.

Sec. 10. NEW SECTION. 724.11A Recognition.

A valid permit or license issued by another state to any nonresident of this state shall be considered to be a valid

permit or license to carry weapons issued pursuant to this chapter, except that such permit or license shall not be considered to be a substitute for an annual permit to acquire pistols or revolvers issued pursuant to section 724.15.

Sec. 11. Section 724.13, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

724.13 Suspension or revocation of permit to carry weapons — criminal history background check.

An issuing officer who finds that a person issued a permit to carry weapons under this chapter has been arrested for a disqualifying offense or is the subject of proceedings that could lead to the person's ineligibility for such permit may immediately suspend such permit. An issuing officer proceeding under this section shall immediately notify the permit holder of the suspension by personal service or certified mail on a form prescribed and published by the commissioner of public safety and the suspension shall become effective upon the permit holder's receipt of such notice. If the suspension is based on an arrest or a proceeding that does not result in a disqualifying conviction or finding against the permit holder, the issuing officer shall immediately reinstate the permit upon receipt of proof of the matter's final disposition. If the arrest leads to a disqualifying conviction or the proceedings to a disqualifying finding, the issuing officer shall revoke the permit. The issuing officer may also revoke the permit of a person whom the issuing officer later finds was not qualified for such a permit at the time of issuance or who the officer finds provided materially false information on the permit application. A person aggrieved by a suspension or revocation under this section may seek review of the decision pursuant to section 724.21A.

The issuing officer may annually conduct a background check concerning a person issued a permit by obtaining criminal history data from the department of public safety.

Sec. 12. Section 724.15, Code 2009, is amended to read as follows:

724.15 Annual permit to acquire pistols or revolvers.

1. Any person who ~~acquires~~ desires to acquire ownership of any pistol or revolver shall first obtain an annual permit. An annual permit shall ~~not~~ be issued upon request to any ~~person~~ resident of this state unless the person is subject to any of the following:

- ~~a. The person is~~ Is less than twenty-one years of age ~~or older.~~
- ~~b. The person has never been convicted of a felony.~~
- ~~c. The person is not addicted to the use of alcohol or a controlled substance.~~
- ~~d. The person has no history of repeated acts of violence.~~
- ~~e. The person has never been convicted of a crime defined in chapter 708, except "assault" as defined in section 708.1 and "harassment" as defined in section 708.7.~~
- ~~f. The person has never been adjudged mentally incompetent.~~
- b. Is subject to the provisions of section 724.26.
- c. Is prohibited by federal law from shipping, transporting, possessing, or receiving a firearm.

2. Any person who acquires ownership of a pistol or revolver shall not be required to obtain an annual permit if any of the following apply:

- a. The person transferring the pistol or revolver and the person acquiring the pistol or revolver are licensed firearms dealers under federal law;.
- b. The pistol or revolver acquired is an antique firearm, a collector's item, a device which is not designed or redesigned for use as a weapon, a device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device, or a firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition; or.
- c. The person acquiring the pistol or revolver is authorized to do so on behalf of a law enforcement agency.
- d. The person has obtained a valid permit to carry weapons, as provided in section 724.11.

e. The person transferring the pistol or revolver and the person acquiring the pistol or revolver are related to one another within the second degree of consanguinity or affinity unless the person transferring the pistol or revolver knows that the person acquiring the pistol or revolver would be ~~ineligible to obtain~~ disqualified from obtaining a permit.

3. The annual permit to acquire pistols or revolvers shall authorize the permit holder to acquire one or more pistols or revolvers during the period that the permit remains valid. If the issuing officer determines that the applicant has become disqualified under the provisions of subsection 1, the issuing officer may immediately ~~invalidate~~ revoke the permit and shall provide a written statement of the reasons for revocation, and the applicant shall have the right to appeal the revocation as provided in section 724.21A.

4. An issuing officer who finds that a person issued a permit to acquire pistols or revolvers under this chapter has been arrested for a disqualifying offense or who is the subject of proceedings that could lead to the person's ineligibility for such permit may immediately suspend such permit. An issuing officer proceeding under this subsection shall immediately notify the permit holder of the suspension by personal service or certified mail on a form prescribed and published by the commissioner of public safety and the suspension shall become effective upon the permit holder's receipt of such notice. If the suspension is based on an arrest or a proceeding that does not result in a disqualifying conviction or finding against the permit holder, the issuing officer shall immediately reinstate the permit upon receipt of proof of the matter's final disposition. If the arrest leads to a disqualifying conviction or the proceedings to a disqualifying finding, the issuing officer shall revoke the permit. The issuing officer may also revoke the permit of a person whom the issuing officer later finds was not qualified for such a permit at the time of issuance or who the officer finds provided materially false information on the permit application. A person aggrieved by a

suspension or revocation under this subsection may seek review of the decision, pursuant to section 724.21A.

Sec. 13. Section 724.17, Code 2009, is amended to read as follows:

724.17 Application for annual permit to acquire — criminal history check required.

The application for an annual permit to acquire pistols or revolvers may be made to the sheriff of the county of the applicant's residence and shall be on a form prescribed and published by the commissioner of public safety. The application shall state require only the full name of the applicant, the driver's license or nonoperator's identification card number of the applicant, the residence of the applicant, and the age date and place of birth of the applicant. The applicant shall also display an identification card that bears a distinguishing number assigned to the cardholder, the full name, date of birth, sex, residence address, and brief description and colored photograph of the cardholder, or other identification as specified by rule of the department of public safety. The sheriff shall conduct a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety which shall include an inquiry of the national instant criminal background system maintained by the federal bureau of investigation or any successor agency. ~~A person who knowingly makes a false statement of material fact on the application commits a class "D" felony.~~ A person who makes what the person knows to be a false statement of material fact on an application submitted under this section or who submits what the person knows to be any materially falsified or forged documentation in connection with such an application commits a class "D" felony.

Sec. 14. NEW SECTION. **724.21A Denial, suspension, or revocation of permit to carry weapons or permit to acquire pistols or revolvers.**

1. In any case where the sheriff or the commissioner of public safety denies an application for or suspends or revokes a

permit to carry weapons or an annual permit to acquire pistols or revolvers, the sheriff or commissioner shall provide a written statement of the reasons for the denial, suspension, or revocation and the applicant or permit holder shall have the right to appeal the denial, suspension, or revocation to an administrative law judge in the department of inspections and appeals within thirty days of receiving written notice of the denial, suspension, or revocation.

2. The applicant or permit holder may file an appeal with an administrative law judge by filing a copy of the denial, suspension, or revocation notice with a written statement that clearly states the applicant's reasons rebutting the denial, suspension, or revocation along with a fee of ten dollars. Additional supporting information relevant to the proceedings may also be included.

3. The administrative law judge shall, within forty-five days of receipt of the request for an appeal, set a hearing date. The hearing may be held by telephone or video conference at the discretion of the administrative law judge. The administrative law judge shall receive witness testimony and other evidence relevant to the proceedings at the hearing. The hearing shall be conducted pursuant to chapter 17A.

4. Upon conclusion of the hearing, the administrative law judge shall order that the denial, suspension, or revocation of the permit be either rescinded or sustained. An applicant, permit holder, or issuing officer aggrieved by the final judgment of the administrative law judge shall have the right to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

5. The standard of review under this section shall be clear and convincing evidence that the issuing officer's written statement of the reasons for the denial, suspension, or revocation constituted probable cause to deny an application or to suspend or revoke a permit.

6. The department of inspections and appeals shall adopt rules pursuant to chapter 17A as necessary to carry out the

provisions of this section.

7. In any case where the issuing officer denies an application for, or suspends or revokes a permit to carry weapons or an annual permit to acquire pistols or revolvers solely because of an adverse determination by the national instant criminal background check system, the applicant or permit holder shall not seek relief under this section but may pursue relief of the national instant criminal background check system determination pursuant to Pub. L. No. 103-159, sections 103(f) and (g) and 104 and 28 C.F.R. § 25.10, or other applicable law. The outcome of such proceedings shall be binding on the issuing officer.

Sec. 15. Section 724.25, subsection 1, Code 2009, is amended to read as follows:

1. As used in ~~sections 724.8, subsection 2, and section 724.26~~, the word "*felony*" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

Sec. 16. Section 724.27, Code 2009, is amended to read as follows:

724.27 Offenders' rights restored.

1. The provisions of section 724.8, ~~subsection 2, section 724.15, subsection 1, paragraphs "b" and "e", and section 724.26~~ shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored under section 914.7 ~~and who is pardoned or has had the person's civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.~~ if any of the following occur:

a. The person is pardoned by the President of the United States or the chief executive of a state for a disqualifying

conviction.

b. The person's civil rights have been restored after a disqualifying conviction, commitment, or adjudication.

c. The person's conviction for a disqualifying offense has been expunged.

2. Subsection 1 shall not apply to a person whose pardon, restoration of civil rights, or expungement of conviction expressly forbids the person to receive, transport, or possess firearms or destructive devices.

Sec. 17. NEW SECTION. 724.31 Persons subject to mental and substance abuse health-related orders or commitments — firearms — restoration of rights — reports.

1. A court order referred to in subsection 2 shall include information informing the person who is the subject of the order not to ship, possess, receive, or transport or cause the transport of firearms or ammunition. The clerk of the district court shall forward only such information as is necessary to identify a person subject to an order in subsection 2 to the department of public safety, which in turn shall forward the information to the federal bureau of investigation or its successor agency for the sole purpose of inclusion in the national instant criminal background check system database.

2. A court order that does any of the following is subject to this section:

a. Orders commitment pursuant to section 125.84.

b. Orders commitment pursuant to section 222.31.

c. Orders commitment pursuant to section 229.14.

d. Finds a defendant incompetent to stand trial pursuant to section 812.5.

3. a. A person who is the subject of a court order listed in subsection 2 and who has been released from commitment may petition the court that issued the order or the court in the county where the person resides no earlier than two years from the date of the issuance of the order for relief from the disabilities imposed by 18 U.S.C. section 922(d)(4) and (g)(4). A copy of the petition shall also be served on the director of

human services and the county attorney at the county attorney's office of the county in which the original order occurred, and the director or the county attorney may appear, support, object to, and present evidence relevant to the relief sought by the petitioner. A court considering a petition under this section shall receive evidence concerning all of the following:

(1) The circumstances surrounding the original issuance of the order in subsection 2.

(2) The petitioner's mental health and criminal history.

(3) The petitioner's reputation and character.

(4) Any changes in the petitioner's condition or circumstances since the issuance of the order in subsection 2 that are relevant to the relief sought.

b. The court shall grant a petition filed pursuant to paragraph "a" if the court finds by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to the public safety and that the granting of the relief would not be contrary to the public interest. The petitioner may appeal a denial of the requested relief and the review shall be de novo. A person may file a petition for relief under this subsection not more than once every two years.

c. If a court issues an order granting a petition for relief under paragraph "b", the clerk of the district court shall immediately forward only such information as is necessary to identify a person granted relief to the department of public safety which, upon receipt, shall immediately forward such information as is necessary to the federal bureau of investigation or its successor agency to update the national instant criminal background check system database with the relief from disabilities.

Sec. 18. TRANSITION PROVISIONS. A permit issued under chapter 724 prior to January 1, 2011, remains effective and continues in effect as issued for the twelve-month period following its issuance. This Act does not preclude the permit holder from seeking to renew the permit under this Act prior to the expiration of the twelve-month period.

Sec. 19. EFFECTIVE DATE. This Act takes effect January 1, 2011.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2379, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2010

CHESTER J. CULVER
Governor